

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION

UNITED STATES OF AMERICA,

v.

ROBERT F. MCDONNELL,

and

MAUREEN G. MCDONNELL,

Defendants.

Action No. 3:14-CR-12

**ORDER**

THIS MATTER is before the Court on two Motions to Dismiss Counts 1-11 of the Indictment (“Motions to Dismiss”) (ECF Nos. 105, 111) and two Motions for Discovery of Selected Grand Jury Communications (“Grand Jury Motions”) (ECF Nos. 8, 25) filed by Defendants Robert McDonnell and Maureen McDonnell.

The Indictment sufficiently alleges each element of the charged offenses, fairly apprising Defendants of the charges against which they must defend and allowing Defendants to plead double jeopardy in the event of a future prosecution for the same offenses. *See Hamling v. United States*, 418 U.S. 87, 117 (1974); *United States v. Kingrea*, 573 F.3d 186, 191 (4th Cir. 2009) (quoting *United States v. Darby*, 37 F.3d 1059, 1062 (4th Cir. 1994)). It is well settled that the validity of an indictment is tested by its allegations, not by whether the government can prove its case. *See Costello v. United States*, 350 U.S. 359, 363 (1956). Defendants take issue with the Indictment primarily on the ground that it fails to allege Robert McDonnell performed or promised to perform any “official act” within the meaning of the federal bribery statutes. However, the Fourth Circuit has held that conduct analogous to that alleged in paragraphs 22 and 111(c) of the Indictment can, as a matter of law, “fall under the umbrella of [] ‘official acts.’”

